

**58-37f-101. Title.**

This chapter is known as the "Controlled Substance Database Act."

Enacted by Chapter 287, 2010 General Session

**58-37f-102. Definitions.**

- (1) The definitions in Section 58-37-2 apply to this chapter.
- (2) As used in this chapter:
  - (a) "Board" means the Utah State Board of Pharmacy created in Section 58-17b-201.
  - (b) "Business associate" is as defined under the HIPAA privacy, security, and breach notification rules in 45 C.F.R. 164.502(a), 164.504(e), and 164.532(d) and (e).
  - (c) "Database" means the controlled substance database created in Section 58-37f-201.
  - (d) "De-identified" is as defined in 45 C.F.R. 164.502(d) and 164.514(a), (b), and (c).
  - (e) "Health care facility" is as defined in Section 26-21-2.
  - (f) "Mental health therapist" is as defined in Section 58-60-102.
  - (g) "Pharmacy" or "pharmaceutical facility" is as defined in Section 58-17b-102.
  - (h) "Prospective patient" means an individual who:
    - (i) is seeking medical advice, medical treatment, or medical services from a practitioner; and
    - (ii) the practitioner described in Subsection (2)(h)(i) is considering accepting as a patient.
  - (i) "Substance abuse treatment program" is as defined in Section 62A-2-101.

Amended by Chapter 130, 2013 General Session

**58-37f-201. Controlled substance database -- Creation -- Purpose.**

- (1) There is created within the division a controlled substance database.
- (2) The division shall administer and direct the functioning of the database in accordance with this chapter.
- (3) The division may, under state procurement laws, contract with another state agency or a private entity to establish, operate, or maintain the database.
- (4) The division shall, in collaboration with the board, determine whether to operate the database within the division or contract with another entity to operate the database, based on an analysis of costs and benefits.
- (5) The purpose of the database is to contain the data described in Section 58-37f-203 regarding every prescription for a controlled substance dispensed in the state to any individual other than an inpatient in a licensed health care facility.
- (6) The division shall maintain the database in an electronic file or by other means established by the division to facilitate use of the database for identification of:
  - (a) prescribing practices and patterns of prescribing and dispensing controlled substances;
  - (b) practitioners prescribing controlled substances in an unprofessional or unlawful manner;

(c) individuals receiving prescriptions for controlled substances from licensed practitioners, and who subsequently obtain dispensed controlled substances from a drug outlet in quantities or with a frequency inconsistent with generally recognized standards of dosage for that controlled substance; and

(d) individuals presenting forged or otherwise false or altered prescriptions for controlled substances to a pharmacy.

Enacted by Chapter 287, 2010 General Session

**58-37f-202. Duties of board in relation to the database.**

The board shall advise the division regarding:

- (1) establishing, maintaining, and operating the database;
- (2) access to the database and how access is obtained; and
- (3) control of information contained in the database.

Enacted by Chapter 287, 2010 General Session

**58-37f-203 (Superseded 07/01/14). Submission, collection, and maintenance of data.**

(1) The pharmacist in charge of the drug outlet where a controlled substance is dispensed shall submit the data described in this section to the division:

- (a) in accordance with the requirements of this section;
- (b) in accordance with the procedures established by the division; and
- (c) in the format established by the division.

(2) The pharmacist described in Subsection (1) shall, for each controlled substance dispensed by a pharmacist under the pharmacist's supervision other than those dispensed for an inpatient at a health care facility, submit to the division the following information:

- (a) the name of the prescribing practitioner;
- (b) the date of the prescription;
- (c) the date the prescription was filled;
- (d) the name of the individual for whom the prescription was written;
- (e) positive identification of the individual receiving the prescription, including the type of identification and any identifying numbers on the identification;
- (f) the name of the controlled substance;
- (g) the quantity of the controlled substance prescribed;
- (h) the strength of the controlled substance;
- (i) the quantity of the controlled substance dispensed;
- (j) the dosage quantity and frequency as prescribed;
- (k) the name of the drug outlet dispensing the controlled substance;
- (l) the name of the pharmacist dispensing the controlled substance; and
- (m) other relevant information as required by division rule.

(3) (a) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish the electronic format in which the information required under this section shall be submitted to the division.

(b) The division shall ensure that the database system records and maintains for

reference:

- (i) the identification of each individual who requests or receives information from the database;
- (ii) the information provided to each individual; and
- (iii) the date and time that the information is requested or provided.

Enacted by Chapter 287, 2010 General Session

**58-37f-301. Access to database.**

(1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) effectively enforce the limitations on access to the database as described in this part; and

(b) establish standards and procedures to ensure accurate identification of individuals requesting information or receiving information without request from the database.

(2) The division shall make information in the database and information obtained from other state or federal prescription monitoring programs by means of the database available only to the following individuals, in accordance with the requirements of this chapter and division rules:

(a) personnel of the division specifically assigned to conduct investigations related to controlled substance laws under the jurisdiction of the division;

(b) authorized division personnel engaged in analysis of controlled substance prescription information as a part of the assigned duties and responsibilities of their employment;

(c) in accordance with a written agreement entered into with the department, employees of the Department of Health:

(i) whom the director of the Department of Health assigns to conduct scientific studies regarding the use or abuse of controlled substances, if the identity of the individuals and pharmacies in the database are confidential and are not disclosed in any manner to any individual who is not directly involved in the scientific studies; or

(ii) when the information is requested by the Department of Health in relation to a person or provider whom the Department of Health suspects may be improperly obtaining or providing a controlled substance;

(d) in accordance with a written agreement entered into with the department, a designee of the director of the Department of Health, who is not an employee of the Department of Health, whom the director of the Department of Health assigns to conduct scientific studies regarding the use or abuse of controlled substances pursuant to an application process established in rule by the Department of Health, if:

(i) the designee provides explicit information to the Department of Health regarding the purpose of the scientific studies;

(ii) the scientific studies to be conducted by the designee:

(A) fit within the responsibilities of the Department of Health for health and welfare;

(B) are reviewed and approved by an Institutional Review Board that is approved for human subject research by the United States Department of Health and

Human Services; and

(C) are not conducted for profit or commercial gain; and

(D) are conducted in a research facility, as defined by division rule, that is associated with a university or college in the state accredited by the Northwest Commission on Colleges and Universities;

(iii) the designee protects the information as a business associate of the Department of Health; and

(iv) the identity of the prescribers, patients, and pharmacies in the database are de-identified, confidential, not disclosed in any manner to the designee or to any individual who is not directly involved in the scientific studies;

(e) in accordance with the written agreement entered into with the department and the Department of Health, authorized employees of a managed care organization, as defined in 42 C.F.R. Sec. 438, if:

(i) the managed care organization contracts with the Department of Health under the provisions of Section 26-18-405 and the contract includes provisions that:

(A) require a managed care organization employee who will have access to information from the database to submit to a criminal background check; and

(B) limit the authorized employee of the managed care organization to requesting either the division or the Department of Health to conduct a search of the database regarding a specific Medicaid enrollee and to report the results of the search to the authorized employee; and

(ii) the information is requested by an authorized employee of the managed care organization in relation to a person who is enrolled in the Medicaid program with the managed care organization, and the managed care organization suspects the person may be improperly obtaining or providing a controlled substance;

(f) a licensed practitioner having authority to prescribe controlled substances, to the extent the information:

(i) (A) relates specifically to a current or prospective patient of the practitioner; and

(B) is provided to or sought by the practitioner for the purpose of:

(I) prescribing or considering prescribing any controlled substance to the current or prospective patient;

(II) diagnosing the current or prospective patient;

(III) providing medical treatment or medical advice to the current or prospective patient; or

(IV) determining whether the current or prospective patient:

(Aa) is attempting to fraudulently obtain a controlled substance from the practitioner; or

(Bb) has fraudulently obtained, or attempted to fraudulently obtain, a controlled substance from the practitioner;

(ii) (A) relates specifically to a former patient of the practitioner; and

(B) is provided to or sought by the practitioner for the purpose of determining whether the former patient has fraudulently obtained, or has attempted to fraudulently obtain, a controlled substance from the practitioner;

(iii) relates specifically to an individual who has access to the practitioner's Drug Enforcement Administration identification number, and the practitioner suspects that the

individual may have used the practitioner's Drug Enforcement Administration identification number to fraudulently acquire or prescribe a controlled substance;

(iv) relates to the practitioner's own prescribing practices, except when specifically prohibited by the division by administrative rule;

(v) relates to the use of the controlled substance database by an employee of the practitioner, described in Subsection (2)(g); or

(vi) relates to any use of the practitioner's Drug Enforcement Administration identification number to obtain, attempt to obtain, prescribe, or attempt to prescribe, a controlled substance;

(g) in accordance with Subsection (3)(a), an employee of a practitioner described in Subsection (2)(f), for a purpose described in Subsection (2)(f)(i) or (ii), if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner provides written notice to the division of the identity of the employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(3)(b) with respect to the employee;

(h) an employee of the same business that employs a licensed practitioner under Subsection (2)(f) if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner and the employing business provide written notice to the division of the identity of the designated employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(3)(b) with respect to the employee;

(i) a licensed pharmacist having authority to dispense a controlled substance to the extent the information is provided or sought for the purpose of:

(i) dispensing or considering dispensing any controlled substance; or

(ii) determining whether a person:

(A) is attempting to fraudulently obtain a controlled substance from the pharmacist; or

(B) has fraudulently obtained, or attempted to fraudulently obtain, a controlled substance from the pharmacist;

(j) in accordance with Subsection (3)(a), a licensed pharmacy technician who is an employee of a pharmacy as defined in Section 58-17b-102, for the purposes described in Subsection (2)(h)(i) or (ii), if:

(i) the employee is designated by the pharmacist-in-charge as an individual authorized to access the information on behalf of a licensed pharmacist employed by the pharmacy;

(ii) the pharmacist-in-charge provides written notice to the division of the identity

of the employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(3)(b) with respect to the employee;

(k) federal, state, and local law enforcement authorities, and state and local prosecutors, engaged as a specified duty of their employment in enforcing laws:

(i) regulating controlled substances;

(ii) investigating insurance fraud, Medicaid fraud, or Medicare fraud; or

(iii) providing information about a criminal defendant to defense counsel, upon request during the discovery process, for the purpose of establishing a defense in a criminal case;

(l) employees of the Office of Internal Audit and Program Integrity within the Department of Health who are engaged in their specified duty of ensuring Medicaid program integrity under Section 26-18-2.3;

(m) a mental health therapist, if:

(i) the information relates to a patient who is:

(A) enrolled in a licensed substance abuse treatment program; and

(B) receiving treatment from, or under the direction of, the mental health therapist as part of the patient's participation in the licensed substance abuse treatment program described in Subsection (2)(m)(i)(A);

(ii) the information is sought for the purpose of determining whether the patient is using a controlled substance while the patient is enrolled in the licensed substance abuse treatment program described in Subsection (2)(m)(i)(A); and

(iii) the licensed substance abuse treatment program described in Subsection (2)(m)(i)(A) is associated with a practitioner who:

(A) is a physician, a physician assistant, an advance practice registered nurse, or a pharmacist; and

(B) is available to consult with the mental health therapist regarding the information obtained by the mental health therapist, under this Subsection (2)(m), from the database;

(n) an individual who is the recipient of a controlled substance prescription entered into the database, upon providing evidence satisfactory to the division that the individual requesting the information is in fact the individual about whom the data entry was made;

(o) the inspector general, or a designee of the inspector general, of the Office of Inspector General of Medicaid Services, for the purpose of fulfilling the duties described in Title 63A, Chapter 13, Part 2, Office and Powers; and

(p) the following licensed physicians for the purpose of reviewing and offering an opinion on an individual's request for workers' compensation benefits under Title 34A, Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act:

(i) a member of the medical panel described in Section 34A-2-601; or

(ii) a physician offering a second opinion regarding treatment.

(3) (a) (i) A practitioner described in Subsection (2)(f) may designate up to three

employees to access information from the database under Subsection (2)(g), (2)(h), or (4)(c).

(ii) A pharmacist described in Subsection (2)(h) who is a pharmacist-in-charge may designate up to three employees to access information from the database under Subsection (2)(i).

(b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) establish background check procedures to determine whether an employee designated under Subsection (2)(g), (2)(h), or (4)(c) should be granted access to the database; and

(ii) establish the information to be provided by an emergency room employee under Subsection (4).

(c) The division shall grant an employee designated under Subsection (2)(g), (2)(h), or (4)(c) access to the database, unless the division determines, based on a background check, that the employee poses a security risk to the information contained in the database.

(4) (a) An individual who is employed in the emergency room of a hospital may exercise access to the database under this Subsection (4) on behalf of a licensed practitioner if the individual is designated under Subsection (4)(c) and the licensed practitioner:

(i) is employed in the emergency room;

(ii) is treating an emergency room patient for an emergency medical condition; and

(iii) requests that an individual employed in the emergency room and designated under Subsection (4)(c) obtain information regarding the patient from the database as needed in the course of treatment.

(b) The emergency room employee obtaining information from the database shall, when gaining access to the database, provide to the database the name and any additional identifiers regarding the requesting practitioner as required by division administrative rule established under Subsection (3)(b).

(c) An individual employed in the emergency room under this Subsection (4) may obtain information from the database as provided in Subsection (4)(a) if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner and the hospital operating the emergency room provide written notice to the division of the identity of the designated employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(3)(b) with respect to the employee.

(d) The division may impose a fee, in accordance with Section 63J-1-504, on a practitioner who designates an employee under Subsection (2)(g), (2)(h), or (4)(c) to pay for the costs incurred by the division to conduct the background check and make the determination described in Subsection (3)(b).

(5) (a) An individual who is granted access to the database based on the fact

that the individual is a licensed practitioner or a mental health therapist shall be denied access to the database when the individual is no longer licensed.

(b) An individual who is granted access to the database based on the fact that the individual is a designated employee of a licensed practitioner shall be denied access to the database when the practitioner is no longer licensed.

Amended by Chapter 68, 2014 General Session  
Amended by Chapter 401, 2014 General Session

**58-37f-302. Other restrictions on access to database.**

(1) A person who is a relative of a deceased individual is not entitled to access information from the database relating to the deceased individual based on the fact or claim that the person is:

- (a) related to the deceased individual; or
- (b) subrogated to the rights of the deceased individual.

(2) Except as provided in Subsection (3), data provided to, maintained in, or accessed from the database that may be identified to, or with, a particular person is not subject to discovery, subpoena, or similar compulsory process in any civil, judicial, administrative, or legislative proceeding, nor shall any individual or organization with lawful access to the data be compelled to testify with regard to the data.

(3) The restrictions described in Subsection (2) do not apply to a civil, judicial, or administrative action brought to enforce the provisions of this chapter.

Enacted by Chapter 287, 2010 General Session

**58-37f-401. Database registration required -- Penalties for failure to register.**

(1) Each individual, other than a veterinarian, who, on June 30, 2010, has a license to prescribe a controlled substance under Chapter 37, Utah Controlled Substances Act, but is not registered with the division to use the database shall, on or before September 30, 2010, register with the division to use the database.

(2) Each individual who, on November 1, 2012, is registered with the division to use the database shall, on or before January 1, 2013, participate in the online tutorial and pass the online test described in Section 58-37f-402.

(3) (a) An individual who is not a veterinarian, who obtains a new license to prescribe a controlled substance under Chapter 37, Utah Controlled Substances Act, shall, within 30 days after the day on which the individual obtains a license to prescribe a controlled substance from the Drug Enforcement Administration, register with the division to use the database.

(b) An individual who is not a veterinarian may not renew a license to prescribe a controlled substance under Chapter 37, Utah Controlled Substances Act, unless the individual registers with the division to use the database.

(4) Beginning on November 2, 2012, in order to register to use the database, the individual registering must participate in the online tutorial and pass the online test described in Section 58-37f-402.

(5) Failure by an individual to comply with the requirements of this section is



grounds for the division to take the following actions in accordance with Section 58-1-401:

- (a) refuse to issue a license to the individual;
- (b) refuse to renew the individual's license; or
- (c) revoke, suspend, restrict, or place on probation the license.

(6) Beginning on July 1, 2010, the division shall, in accordance with Section 63J-1-504, impose an annual database registration fee on an individual who registers to use the database, to pay the startup and ongoing costs of the division for complying with the requirements of this section and Section 58-37f-402.

Amended by Chapter 23, 2011 General Session

**58-37f-402. Online tutorial and test relating to the database -- Fees -- Rulemaking authority -- Continuing professional education credit.**

(1) The division shall develop an online tutorial and an online test for registration to use the database that provides instruction regarding, and tests, the following:

- (a) the purpose of the database;
- (b) how to access and use the database;
- (c) the law relating to:
  - (i) the use of the database; and
  - (ii) the information submitted to, and obtained from, the database; and
- (d) basic knowledge that is important for all people who prescribe controlled substances to know in order to help ensure the health and safety of an individual to whom a controlled substance is prescribed.

(2) The division shall design the test described in this section as follows:

- (a) an individual shall answer all of the questions correctly in order to pass the test;
- (b) an individual shall be permitted to immediately retake the portion of the test that the individual answers incorrectly as many times as necessary for the individual to pass the test; and
- (c) after an individual takes the test, the test software shall:
  - (i) immediately inform the individual of the number of questions that were answered incorrectly;
  - (ii) provide the correct answers;
  - (iii) replay the portion of the tutorial that relates to the incorrectly answered questions; and
  - (iv) ask the individual the incorrectly answered questions again.

(3) The division shall design the tutorial and test so that it is possible to take the tutorial and complete the test in 20 minutes or less, if the individual answers all of the questions correctly on the first attempt.

(4) The division shall ensure that the tutorial and test described in this section are fully functional and available for use online on or before November 1, 2010.

(5) The division shall impose a fee, in accordance with Section 63J-1-504, on an individual who takes the test described in this section, to pay the costs incurred by the division to:

- (a) develop, implement, and administer the tutorial and test described in this

section; and

(b) fulfill the other duties imposed on the division under this part.

(6) The division may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) develop, implement, and administer the tutorial and test described in this section; and

(b) fulfill the other duties imposed on the division under this part.

(7) The Department of Health shall assist the division in developing the portion of the test described in Subsection (1)(d).

(8) Completing the online tutorial and passing the online test described in this section shall count as 1/2 hour of continuing professional education under Subsection 58-37-6.5(2).

Amended by Chapter 450, 2013 General Session

**58-37f-501. Costs of operating database and recording and submitting data.**

(1) All department and division costs necessary to establish and operate the database shall be funded by appropriations from:

(a) the Commerce Service Account; and

(b) the General Fund.

(2) All costs associated with recording and submitting data as required in this chapter shall be assumed by the submitting pharmacy.

Enacted by Chapter 287, 2010 General Session

Amended by Chapter 287, 2010 General Session, (Coordination Clause)

**58-37f-502. Use of dedicated credits -- Controlled Substance Database -- Collection of penalties.**

(1) The director may use the money deposited in the General Fund as a dedicated credit under Subsections 58-37-6(8)(a), 58-37f-601(3)(d), and 58-37f-602(2) for the following purposes:

(a) maintenance and replacement of the database equipment, including hardware and software;

(b) training of staff; and

(c) pursuit of external grants and matching funds.

(2) The director of the division may collect any penalty imposed under Subsections 58-37-6(8)(a), 58-37f-601(3)(d), and 58-37f-602(2) and which is not paid by:

(a) referring the matter to the Office of State Debt Collection or a collection agency; or

(b) bringing an action in the district court of the county in which the person owing the debt resides or in the county where the office of the director is located.

(3) The director may seek legal assistance from the attorney general or the county or district attorney of the district in which the action is brought to collect the fine.

(4) The court shall award reasonable attorney fees and costs to the division for

successful collection actions under Subsection (2)(b).

Renumbered and Amended by Chapter 287, 2010 General Session  
Amended by Chapter 391, 2010 General Session

**58-37f-601. Unlawful release or use of database information -- Criminal and civil penalties.**

(1) Any person who knowingly and intentionally releases any information in the database or knowingly and intentionally releases any information obtained from other state or federal prescription monitoring programs by means of the database in violation of the limitations under Part 3, Access, is guilty of a third degree felony.

(2) (a) Any person who obtains or attempts to obtain information from the database or from any other state or federal prescription monitoring programs by means of the database by misrepresentation or fraud is guilty of a third degree felony.

(b) Any person who obtains or attempts to obtain information from the database for a purpose other than a purpose authorized by this chapter or by rule is guilty of a third degree felony.

(3) (a) Except as provided in Subsection (3)(e), a person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person any information obtained from the database or from any other state or federal prescription monitoring programs by means of the database for any purpose other than those specified in Part 3, Access.

(b) Each separate violation of this Subsection (3) is a third degree felony and is also subject to a civil penalty not to exceed \$5,000.

(c) The procedure for determining a civil violation of this Subsection (3) is in accordance with Section 58-1-108, regarding adjudicative proceedings within the division.

(d) Civil penalties assessed under this Subsection (3) shall be deposited in the General Fund as a dedicated credit to be used by the division under Subsection 58-37f-502(1).

(e) This Subsection (3) does not prohibit a person who obtains information from the database under Subsection 58-37f-301(2)(f), (g), (i), or (4)(c) from:

(i) including the information in the person's medical chart or file for access by a person authorized to review the medical chart or file; or

(ii) providing the information to a person in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996.

Amended by Chapter 68, 2014 General Session

**58-37f-602. Failure by pharmacist to submit information -- Penalties.**

(1) The failure of a pharmacist in charge to submit information to the database as required under Section 58-37f-203, after the division has submitted a specific written request for the information or when the division determines the individual has a demonstrable pattern of failing to submit the information as required, is grounds for the division to take the following actions in accordance with Section 58-1-401:

(a) refuse to issue a license to the individual;

- (b) refuse to renew the individual's license;
  - (c) revoke, suspend, restrict, or place on probation the license;
  - (d) issue a public reprimand to the individual;
  - (e) issue a cease and desist order; and
  - (f) impose a civil penalty of not more than \$1,000 for each dispensed prescription regarding which the required information is not submitted.
- (2) Civil penalties assessed under Subsection (1)(f) shall be deposited in the General Fund as a dedicated credit to be used by the division under Subsection 58-37f-502(1).
- (3) The procedure for determining a civil violation of this section shall be in accordance with Section 58-1-108, regarding adjudicative proceedings within the division.

Enacted by Chapter 287, 2010 General Session

**58-37f-701. Immunity from liability.**

An individual who has submitted information to the database in accordance with this section may not be held civilly liable for having submitted the information.

Enacted by Chapter 287, 2010 General Session

**58-37f-702. Reporting prescribed controlled substance poisoning or overdose to a practitioner.**

(1) Beginning on July 1, 2012, if the division receives a report from a general acute hospital under Section 26-21-26, regarding admission to a general acute hospital for poisoning or overdose involving a prescribed controlled substance, the division shall, within three business days after the day on which the report is received:

(a) attempt to identify, through the database, each practitioner who may have prescribed the controlled substance to the patient; and

(b) provide each practitioner identified under Subsection (1)(a) with:

(i) a copy of the report provided by the general acute hospital under Section 26-21-26; and

(ii) the information obtained from the database that led the division to determine that the practitioner receiving the information may have prescribed the controlled substance to the person named in the report.

(2) It is the intent of the Legislature that the information provided under Subsection (1)(b) is provided for the purpose of assisting the practitioner in:

(a) discussing with the patient issues relating to the poisoning or overdose;

(b) advising the patient of measures that may be taken to avoid a future poisoning or overdose; and

(c) making decisions regarding future prescriptions written for the patient.

(3) Beginning on July 1, 2010, the division shall, in accordance with Section 63J-1-504, increase the licensing fee described in Subsection 58-37-6(1)(b) to pay the startup and ongoing costs of the division for complying with the requirements of this section.

Renumbered and Amended by Chapter 290, 2010 General Session, (Coordination Clause)

Enacted by Chapter 290, 2010 General Session

**58-37f-703. Reporting certain convictions to practitioners.**

(1) Beginning on July 1, 2012, if the division receives a report from a court under Subsection 41-6a-502(4) or 41-6a-502.5(5)(b) relating to a conviction for driving under the influence of, or while impaired by, a prescribed controlled substance, the division shall:

(a) attempt to identify, through the database, each practitioner who may have prescribed the controlled substance to the convicted person; and

(b) provide each practitioner identified under Subsection (1)(a) with:

(i) a copy of the information provided by the court; and

(ii) the information obtained from the database that led the division to determine that the practitioner receiving the information may have prescribed the controlled substance to the convicted person.

(2) It is the intent of the Legislature that the information provided under Subsection (1)(b) is provided for the purpose of assisting the practitioner in:

(a) discussing the manner in which the controlled substance may impact the convicted person's driving;

(b) advising the convicted person on measures that may be taken to avoid adverse impacts of the controlled substance on future driving; and

(c) making decisions regarding future prescriptions written for the convicted person.

(3) Beginning on July 1, 2010, the division shall, in accordance with Section 63J-1-504, increase the licensing fee described in Subsection 58-37-6(1)(b) to pay the startup and ongoing costs of the division for complying with the requirements of this section.

Renumbered and Amended by Chapter 109, 2010 General Session, (Coordination Clause)

Enacted by Chapter 109, 2010 General Session

**58-37f-801. Pilot program for real-time reporting for controlled substance database -- Statewide implementation.**

(1) As used in this section:

(a) "Pilot area" means the areas of the state that the division determines to operate the pilot program in, under Subsection (3), which may include:

(i) the entire state; or

(ii) geographical areas within the state.

(b) "Pilot program" means the pilot program described in this section.

(2) There is established a pilot program for real-time reporting of data to, and access to data from, the database by a pharmacy, a pharmaceutical facility, or a prescribing practitioner beginning on July 1, 2010, and ending on July 1, 2012.

(3) In addition to fulfilling the requirements relating to the database on a statewide basis, the division shall, in accordance with Subsection (4), upgrade,

administer, and direct the functioning of the database in geographical areas specified by the division, or on a statewide basis, in a manner that provides for real-time reporting of information entered into, and accessed from, the database by a pharmacy or pharmaceutical facility.

(4) The division shall, under state procurement laws, and with the technical assistance of the Department of Technology Services, contract with a private entity to upgrade, operate, and maintain the database in the pilot area.

(5) (a) All provisions and requirements of the statewide database, described in the other parts of this chapter, are applicable to the database in the pilot area, to the extent that they do not conflict with the requirements of this section.

(b) For purposes of the other parts of this chapter, and this section, the database in the pilot area is considered part of the statewide database.

(6) A pharmacy or pharmaceutical facility shall cooperate with the division, or the division's designee, to provide real-time submission of, and access to, information for the database:

(a) in the pilot area; and

(b) when the division implements the pilot program as a permanent program under Subsection (9), on a statewide basis.

(7) The penalties and enforcement provisions described in the other parts of this chapter apply to enforce the provisions of this section in relation to a pharmacy or pharmaceutical facility that is located in, or operates in, the pilot area.

(8) The division may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to provide for the real-time reporting of, and access to, information in accordance with the requirements of this section.

(9) The division shall, on or before July 1, 2012, implement the pilot program as a permanent program on a statewide basis.

(10) (a) The division shall, through the private entity contracted with under Subsection (4), provide, free of charge, to a pharmacy or pharmaceutical facility that is required to comply with Subsection (6), software, software installation assistance, and training, that will enable the pharmacy or pharmaceutical facility to comply with Subsection (6).

(b) Notwithstanding Subsection (10)(a), a pharmacy or pharmaceutical facility required to comply with Subsection (6) may, instead of accepting installation of the software provided by the division under Subsection (10)(a), modify its own software in order to comply with the requirements of Subsection (6), if the modification is made:

(i) except as provided in Subsection (10)(d), at the expense of the pharmacy or pharmaceutical facility;

(ii) in consultation with the division; and

(iii) within six months after the division notifies the pharmacy or pharmaceutical facility, in writing, of the division's intention to install the software described in Subsection (10)(a).

(c) The division shall, through the private entity contracted with under Subsection (4), cooperate with a pharmacy or pharmaceutical facility that is required to comply with Subsection (6), to ensure that the installation and operation of the software described in Subsection (10)(a), or the provision of information from the pharmacy or pharmaceutical facility to the database:

(i) complies with the security standards described in 45 C.F.R. Parts 160, 162, and 164, Health Insurance Reform: Security Standards;

(ii) does not interfere with the proper functioning of the pharmacy's or pharmaceutical facility's software or computer system; and

(iii) in order to minimize changes in existing protocols, provides, to the extent practicable, for the transmission of data in the same manner that pharmacies currently transmit information to insurance companies.

(d) The division may, within funds appropriated by the Legislature for this purpose, reimburse a pharmacy for all or part of the costs of the in-house programming described in Subsection (10)(b), if:

(i) the pharmacy requests the reimbursement, in writing;

(ii) the pharmacy provides proof of the costs for the in-house programming to the division;

(iii) the pharmacy requests the reimbursement prior to a deadline established by the division; and

(iv) except as provided in Subsection (10)(e), the division pays an equal reimbursement amount to each pharmacy that complies with Subsections (10)(d)(i) through (iii).

(e) The division may reimburse a pharmacy described in Subsection (10)(d)(iv) for an amount that is less than the reimbursement paid to other pharmacies described in Subsection (10)(d)(iv), if:

(i) the proof of costs for in-house programming provided by the pharmacy establishes a cost less than the amount reimbursed to the other pharmacies; and

(ii) the amount reimbursed to the pharmacy is equal to the amount established by the proof of costs for in-house programming submitted by the pharmacy.

(f) Notwithstanding any other provision of this section, the division may, by rule, allow up to 24 hours for the reporting of data to the database by a non-resident pharmacy, as defined in Section 58-17b-102.

Amended by Chapter 167, 2013 General Session